IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:06CV195-1-MU

TERRY EUGENE CURETON,)
Petitioner,)
v.)
JOHN J. LAMANNA,)
Respondent.)

THIS MATTER comes before the Court upon Petitioner's Motion for Reconsideration, filed May 17, 2006

On April 24, 2006, Petitioner filed a Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus. On May 2, 2006, this Court dismissed Petitioner's federal habeas petition. In determining that Petitioner's federal habeas petition should be dismissed this Court noted that Petitioner failed to meet the "in custody pursuant to the judgment of a State court" requirement of such a petition. In addition, the Court noted that in all likelihood Petitioner's federal habeas petition was untimely.

Petitioner has now filed a Motion to Reconsider asserting that his petition should be considered timely filed because he filed it within one year of the conclusion of his timely filed request for state post-conviction efforts. First, as this Court set forth in its earlier Order, Petitioner's limitation period expired prior to his filing for state post-conviction relief. Second, the Court notes that Petitioner does not even address the Court's holding that his federal habeas

petition was dismissed because he failed the "in custody pursuant to the judgment of a State court" requirement.

THEREFORE, IT IS HEREBY ORDERED that Petitioner's Motion for Reconsideration is DENIED.

Signed: May 23, 2006

Graham C. Mullen United States District Judge